

### **REMARKS/ARGUMENTS**

This Preliminary Amendment and the following remarks are intended to fully respond to the final Office Action dated March 17, 2010, hereinafter "Office Action." In that Office Action, claims 33-56 were examined and all claims were rejected. Specifically, claims 33-38, 41-46, and 49-54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bunney (U.S. Pat. No. 6,487,584; hereinafter "**Bunney**") and further in view of Armstrong et al. (U.S. Pat. No. 7,373,428; hereinafter "**Armstrong**"). Claims 39 and 55 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bunney and Armstrong in view of Aravamudan et al. (U.S. Pat. No. 6,301,609; hereinafter "**Aravamudan**"). Claims 40, 47, 48, and 56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bunney and Armstrong in view of Aravamudan, and further in view of "official notice" taken by the Examiner.

Reconsideration of these rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested. In this Amendment, claims 33, 37, 39, 41, 45, 49, 53, and 55 have been amended, claims 40, 42-43, 47-48, and 56 have been canceled, and no claims have been added. Therefore, claims 33-39, 41, 44-46, and 49-55 remain present for examination.

Applicants submit that claim amendments are supported throughout the specification, and in the claims as originally filed, and do not introduce new matter. For instance, the amendments are supported by at least the following sections of the Specification, as filed: p. 17, line 15 – p. 20, line 13.

#### **Claim Rejections Under § 103(a)**

Claims 33-38, 41-46, and 49-54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bunney and further in view of Armstrong. Claims 39 and 55 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bunney and Armstrong in view of Aravamudan. Claims 40, 47, 48, and 56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bunney and Armstrong in view of Aravamudan, further in view of "official notice". Applicants respectfully traverse the § 103(a) rejections because either the Examiner failed to state a *prima facie* case of obviousness or the current amendments to the claims now

render the Examiner's arguments moot. To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the references must teach or suggest all of the claimed limitations to one of ordinary skill in the art at the time the invention was made. M.P.E.P §§ 2142, 2143.03; *In re Royka*, 490 F.2d 981, 985 (C.C.P.A. 1974); *In re Wilson*, 424 F.2d 1382, 1385 (C.C.P.A. 1970). Applicants submit that Bunney fails to teach or suggest all of the claimed limitations and the combination of Armstrong and Aravamudan fail to compensate for the deficiencies of Bunney.

As discussed in the previous Office Action response, Bunney relates to a "multiple personality" internet account system and discloses a solution to a problem occurring when a user is logged-in with one of several addresses (e.g. logged into one of a plurality of email accounts) and the user is not logged in using other addresses. (*Id.*) Specifically, Bunney teaches that a server intelligently (e.g., using a lookup-table) notifies the user at the account where the user is logged-in when, for example, the user receives an email at an account where the user is not logged-in. (*Id.*) Bunney also teaches that a logged-in user may have one of four statuses: available, invisible, away, or busy. (*Id.*) More specifically, the "invisible" status does not permit other users to know anything about the user's online or offline status. (*Id.*) Finally, Bunney discloses that a user may place a "do not disturb" sign (e.g. a flash) on any of the user's addresses. The server will notify the user at any of the addresses that include the "do not disturb" sign.

Armstrong relates to a "multiple access network" system that discloses a solution to the problem occurring when communications are sent to a user over a multiple access network and the user may be reached from multiple devices attached to the multiple access network. (Armstrong, col. 2, line 41 – col. 3, line 22.) Specifically, Armstrong teaches a customized rule system that permits a user (the "watched party") to determine whether and to what extent the watched party may be reached using the multiple access network. In particular, Armstrong provides a series of rules based, *inter alia*, upon "non-communication-related events" or "cooked event triggers" that are provided from a third party service. (Armstrong, col. 11, line 10 – line 33.) The series of rules provided by Armstrong permit a "PCP" or "single point of presence for a watched party" to evaluate, *inter alia*, whether a watched party is available for contact.

(Armstrong, col. 4, line 64 – col. 5, line 24.) To aid in the determination about whether a watched party is available, Armstrong provides a “context presence” (see, e.g., Armstrong, col. 12, lines 7-51, col. 17, lines 4-17), which is an abstract state for each watched party that is “used to determine which context applies for a given watched party at a particular time.” (Armstrong, *id.*) Notably, Armstrong requires that a “context presence” state be “derived from a watched party’s raw presence according to rules defined for that a [sic] watched party.” (Armstrong, col. 12, lines 42-45.) More specifically, Armstrong requires watched parties themselves to define these “rules,” or to define what Armstrong otherwise refers to as “personal information:”

*Each watched party 13 initially registers with the PCP 10 and is given a unique presence management identifier. During the registration process each watched party 13 enters personal information which is recorded in storage 14 in the PCP 10. For example, this information may include the watched party's email address, telephone number, and/or other contact details. Context information may also be included, such as information about whether the watched party 13 is a home worker or a mobile worker. Details about the watched party's preferences may also be recorded, such as which modes of communication are preferred at which times (e.g., email messages may be permitted at any time, while telephone calls may only be preferred during work hours) or which modes get priority, etc. Some of this information may be stored in the form of rules 15 within the PCP 10.* (Armstrong, col. 6, line 21 – line 38.)

Aravamudan relates to a “unified messaging solution and services platform . . . by utilizing the features and capabilities associated with instant messaging to locate a registered user, query the user for a proposed message disposition, and coordinate services among a plurality of communication devices.” (Aravamudan, Abstract.) Specifically, Aravamudan discloses a prioritized buddy system wherein a buddy assigned a high priority and an active status “will be notified via the IM server of the user’s ‘real presence’ when the user accesses the network via any of his provisioned CPE.” (*Id.*, col. 10, lines 2-6.) Alternately, if a buddy is assigned a low priority, the buddy will “always discern the presence of a user’s proxy . . . however, will not be able to determine the ‘real presence.’” (*Id.*, lines 22-25.) That is, a low

priority buddy will always view the proxy “whether or not the user is online or off-line.” (*Id.*, lines 25-26.) Thus, “[i]n essence, the CSP[(Communication Services Platform)] acts as a privacy filter to those buddies and sources that the user has classified as low priority.” (*Id.*, lines 32-34.)

### Claim 33

Independent claim 33 recites, *inter alia*:

receiving a third client status identifier from the first client device, wherein the third client status identifier is one of the plurality of client status identifiers and is different from the first client status identifier and the second client status identifier;

populating the first client view with the third client status identifier;

determining that the third client status identifier indicates inaccurate presence information for the user by determining that the third client status identifier has a lower priority level than the second client status identifier based on the prioritized plurality of client status identifiers; and

maintaining the presence information of the user with the accurate presence information

Bunney fails to teach or suggest, at least, “determining that the third client status identifier indicates inaccurate presence information for the user by determining that the third client status identifier has a lower priority level than the second client status identifier based on the prioritized plurality of client status identifiers; and maintaining the presence information of the user with the accurate presence information” as recited in independent claim 33. Bunney additionally fails to disclose “prioritizing a plurality of client status identifiers, wherein the prioritized plurality of client status identifiers is ordered from a lowest priority level to a highest priority level; determining accurate presence information for the user, wherein determining the accurate presence information for the user comprises: determining that the first client status identifier indicates the accurate presence information for the user when the first client status identifier has a higher priority level than the second client status identifier based on the prioritized plurality of client status identifiers; determining that the second client status identifier indicates the accurate presence information for the user when the second client status identifier

has a higher priority level than the first client status identifier based on the prioritized plurality of client status identifiers; and determining that both the first client status identifier and the second client status identifier indicate the accurate presence information for the user when the first client status identifier and the second client status identifier have a same priority level based on the prioritized plurality of client status identifiers; populating a master view with the accurate presence information for the user; [and] updating the presence information of the user with the accurate presence information,” as further recited in independent claim 33. This deficiency was admitted to in the previous Office Action. (See Office Action, p. 3). Instead, the Office Action relied on Armstrong to disclose these elements. Specifically, the Office Action states that “Armstrong teaches the use of a hierarchy for contacting a watched party if the party is simultaneously available on more than one communication network, context presence according to rules, the use of various context presence values, and the ordering of raw presence data.” (See Office Action, p. 4, citations omitted.)

As discussed above, however, Armstrong discloses a customized rule system that permits a user (the “watched party”) to determine whether and to what extent the watched party desires to be reached using the multiple access network. Specifically, Armstrong discloses that the watched party defines a “context presence” that consists of personal information and details about how the watched party desires to be reached over a multiple access network. The present application, on the other hand, provides a solution to a problem that is altogether unrelated to the rule system customized by a watched party in Armstrong. Instead of customizing response parameters based upon the personal information supplied by a watched party, the present application addresses the problem encountered when a “user is logged onto more than one client or device” and “various clients can believe that the user has a different state or status, [and] the clients are effectively battling each other to update the user’s status that is reflected to the subscribers.” (Specification, as filed, p.4, lines 3-9). More specifically, as recited in independent claim 33, the present invention supplies an answer to this problem by, *inter alia*, “prioritizing a plurality of client status identifiers, wherein the prioritized plurality of client status identifiers is ordered from a lowest priority level to a highest priority level.” Upon receiving a client status identifier (e.g., the “third client status identifier”), claim 33 of the present invention recites determining that “the third client status identifier indicates the inaccurate presence information

for the user when the third client status identifier has a lower priority level than [a] second client status identifier based on the prioritized plurality of client status identifiers.” The present invention is thus directed to determining the accuracy of otherwise conflicting status updates provided by client devices (e.g., where one client device reports an “online” client status identifier and a second client device reports an “offline” client status identifier). Armstrong fails to disclose the prioritization and status update resolution process and system of the present invention. Notably, Armstrong’s disclosure of a system for responding to status updates based upon the personal information supplied by a watched party makes no mention of, let alone teaches or discloses, the status update problem presented when a user is logged onto more than one client device and the client devices provide otherwise conflicting status update messages.

For at least these reasons, Bunney fails to teach or suggest all of the elements of independent claim 33 and Armstrong fails to compensate for Bunney’s deficiencies. Applicant respectfully requests a withdrawal of the rejection for independent claim 33, and its dependent claims 34-39, and an issuance of a notice of allowance at the Examiner’s earliest convenience.

Claims 41 and 49

Claims 41 and 49 recite, *inter alia*:

receiving a third client status identifier from the first client device, wherein the third client status identifier is one of the plurality of client status identifiers and is different from the first client status identifier and the second client status identifier;

populating the first client view with the third client status identifier;

determining inaccurate presence information for the user by determining that the third client status identifier has a lower priority level than the second client status identifier based on the prioritized plurality of client status identifiers; and

maintaining the presence information of the user with the accurate presence information

The recited elements of independent claims 41 and 49 are similar to the recited elements of independent claim 33. For at least similar reasons as independent claim 33, Bunney fails to teach or suggest all the elements of independent claims 41 and 49 and Armstrong fails to compensate for Bunney's deficiencies. Applicant respectfully requests a withdrawal of the rejection for independent claims 41 and 49, and their dependent claims 44-46 and 49-55, and an issuance of a notice of allowance at the Examiner's earliest convenience.

Claims 39 and 55

Dependent claims 39 and 55 recite, *inter alia*:

wherein the first client status identifier is an "online" client status identifier, the second client status identifier is an "online" client status identifier, the third client status identifier is either an "idle" or "offline" client status identifier, and the master view indicates the accurate presence information as "online" for the user.

In addition to the discussion above with respect to underlying independent claims 33 and 49, Bunney and Armstrong also together fail to teach or suggest, at least "wherein the first client status identifier is an "online" client status identifier, the second client status identifier is an "online" client status identifier, the third client status identifier is either an "idle" or "offline" client status identifier, and the master view indicates the accurate presence information as "online" for the user," as recited in dependent claims 39 and 55. Bunney and Armstrong specifically fail to disclose "the master view indicat[ing] the accurate presence information as 'online'" where "the third client status identifier is either an 'idle' or 'offline' client status identifier." With respect to claims 39 and 55, prior to amendment, this deficiency was admitted to in the previous Office Action. (See Office Action, p. 8). Instead, the Office Action relied on Aravamudan to disclose this element. As discussed above, Aravamudan discloses a unified messaging system that provides, *inter alia*, a privacy filter for an instant-messaging client (i.e., a user) to establish whether the user's buddies are able "to discern the presence of the user's proxy" by filtering on a priority value assigned to each buddy. (Aravamudan, col. 10, line 23.)

Notably, Aravamudan fails to disclose the prioritization and status update resolution process and system of the present invention. As discussed earlier, the present invention handles the status update problem presented when a user is logged onto more than one client device and the client devices provide otherwise conflicting status update messages. Instead of disclosing the prioritization and status update resolution process and system of the present invention, Aravamudan discloses a privacy filter that solely restricts access to view a user's presence state (identified within Aravamudan as a user's "real presence"). Specifically, Aravamudan recites:

Advantageously, by providing means to assign a buddy priority to individual buddies or groups of buddies, the user maintains control of his privacy with respect to his online location, presence, and activities. For example, a buddy may be assigned a high priority by the user, in accordance with step 332. In accordance with step 334, a buddy who is assigned a high priority and who has at least one piece of provisioned CPE that is online and active, will be notified via the IM server of the user's "real presence" when the user accesses the network via any of his provisioned CPE. This notification is similar to that currently provided by service providers within buddy groups. That is, when the user is online in accordance with step 336, all others who have identified the user as a buddy are notified of the user's presence, per step 340. The user's real presence is therefore advertised to others who have identified the user as a buddy. However, when the user is off-line, all others who have identified the user as a buddy are notified that the user is not online and is not available. (Aravamudan, col. 9, line 64 – col. 10, line 15.)

In another embodiment, Aravamudan recites further:

However, an embodiment of the present invention expands the concept of buddy notifications. For example, the user may define a buddy as a low priority buddy. In accordance with step 342, the Communication Services Platform (CSP) accesses its database to determine the assigned priority. In accordance with step 344, if the buddy has been assigned a low priority by the user, then the buddy will be always discern the presence of a user's proxy. The buddy, however, will not be able to determine the "real presence." That is, the proxy will always appear available to the buddy, whether or not



the user is online or off-line. The buddy may communicate and interact via the user's proxy residing in the CSP database. In accordance with step 346, the user defined rule base residing in the CSP determines how to process the received data or communication and how and when to notify the user of the received data or communication. In essence, the CSP acts as a privacy filter to those buddies and sources that the user has classified as low priority. The user may define varying rules for CSP treatment depending on whether the user is online or off-line, or depending upon the type of data or communication received. (Aravamudan, col. 10, lines 16-34.)

In both cases (cited above), Aravamudan fails to disclose the prioritization and status update resolution process and system of the present invention, and specifically fails to teach or disclose resolving otherwise conflicting status messages that are received from more than one client device registered to an individual user. Instead, Aravamudan merely discloses prioritizing the buddies of a user and filtering what (if any) buddies can view the user's presence information based upon an evaluation of each buddy's priority. Thus, in consideration of the discussion above with respect to underlying independent claims 33 and 49, Bunney and Armstrong also together fail to teach or suggest all the elements of dependent claims 39 and 55 and Aravamudan fails to compensate for Bunney's and Armstrong's deficiencies. Applicant respectfully requests a withdrawal of the rejection for dependent claims 39 and 55, and an issuance of a notice of allowance at the Examiner's earliest convenience.

#### **Claim Rejections Over Cited Art and Further In View of Official Notice**

The Examiner rejected canceled Claims 40, 47, 48, and 56 under 35 U.S.C. § 103(a) as being obvious over cited references combined with official notice of what the Examiner considered to be well known in the art. The Applicant believes this rejection is now rendered moot due to the cancellation of Claims 40, 47, 48, and 56 and requests that the Examiner withdraw each and every "official notice" cited to support this rejection.

To the extent the Examiner maintains the "official notice" forming the basis of this rejection despite the cancellation of Claims 40, 47, 48, and 56, the Applicant respectfully traverses each instance where the Examiner has taken official notice, and requests that the

Examiner provide tangible proof of the existence of the state of the art to which the Examiner has taken official notice in the event that the next action on the merits is not an allowance of all claims against which official notice was taken.

MPEP § 2144.03 provides that the Examiner may take official notice of facts outside of the record which are capable of instant and unquestionable demonstration as being "well-known" in the art. The stated rationale is that, if justified, the Examiner should not be obliged to spend time to produce documentary proof. If the knowledge is of such notorious character that official notice can be taken, it is sufficient so to state.

However, the MPEP also states that, if the applicant traverses such an assertion, the Examiner should cite a reference in support of his or her position. In the instant case, the Applicant traverses each of the assertions of official notice as stated above, and respectfully requests that evidence of the correctness of the statements in the official notice be provided.

Also, if the rejection is based on facts within the personal knowledge of the Examiner, the data should be stated as specifically as possible, and the facts must be supported, when called for by the Applicant, by an affidavit from the Examiner. Such an affidavit is subject to contradiction or explanation by the affidavits of the Applicant and other persons. *See* 37 CFR 1.104(d)(2). Accordingly, the Applicant respectfully requests that, if the official notice is based on facts within the personal knowledge of the Examiner, an affidavit be so provided. There is no basis for concluding that it was common knowledge to receive client status identifiers from a client device that indicate a user's status to subscribers of the client device, namely where the client status identifiers indicate the user's status as "idle," "on phone," and "at lunch." In certain circumstances (e.g., where received as the status of the third client status identifier, and the first and second client status identifier share a common status), these identifiers, as described within the specification, may invoke the conflict resolution process and system of the present invention.

With regard to the foregoing example of official notice taken by the Examiner, as well as all other instances, the Applicants are knowledgeable in the art and respectfully traverse the conclusions drawn. Accordingly, in the event that the next action on the merits is not an

allowance of all claims against which official notice was taken, the Applicant traverses the taking of official notice, and requests that the Examiner provide tangible proof of the existence of the state of the art to which the Examiner has taken official notice.

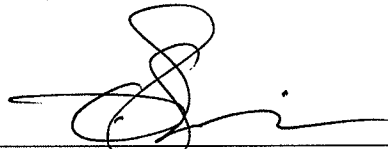
### CONCLUSION

This Preliminary Amendment fully responds to the Office Action mailed on March 17, 2010. Still, that Office Action may contain arguments and rejections that are not directly addressed by this Preliminary Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Preliminary Amendment to directly address an argument raised in the Office Action should not be taken as an indication that the Applicants believe the argument has merit. Furthermore, the claims of the present application may include other elements, not discussed in this Preliminary Amendment, which are not shown, taught, or otherwise suggested by the references of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

This Preliminary Amendment is filed concurrently with a Request for Continued Examination. It is believed that no further fees are due with this Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks and amendments, it is believed that the application is now in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,



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